



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/174192

PRELIMINARY RECITALS

Pursuant to a petition filed May 5, 2016, under Wis. Admin. Code, §DHS 10.55, to review a decision by Milwaukee Enrollment Services in regard to the Family Care Program, a hearing was held on June 2, 2016, at Milwaukee, Wisconsin, with the parties appearing by telephone.

The issue for determination is whether the agency received all of petitioner's expenses in her FCP renewal.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Milwaukee Enrollment Services
1220 W. Vliet Street
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner is eligible for the FCP. In March, 2016 a renewal was completed on her behalf. The renewal was completed by an agency volunteer; the volunteer did not include a number of housing and medical expenses. As a result petitioner's monthly cost share increased effective May 1, 2016 from \$150 to \$732.79.

DISCUSSION

The Family Care program, which is supervised by the Department of Health Services, is designed to provide appropriate long-term care services for elderly or disabled adults. It is authorized in the Wisconsin Statutes, §46.286, and is described comprehensively in the Wisconsin Administrative Code, Chapter DHS 10.

Wis. Stat., §46.286(2)(a), provides that an FCP recipient must pay a cost share based upon income and certain expenses. Wis. Adm. Code, §DHS 10.34(3)(b) provides that cost of care is determined by taking the institutionalized person's income, then making several deductions. The first deduction is a personal needs allowance as provided under 42 C.F.R. §435.726(c). That personal needs allowance is \$913, as set out in the MA Handbook, App. 39.4.2. Another deduction is special housing expenses for costs above \$350 per month. MA Handbook, App. 28.8.3.1. A third deduction is for out-of-pocket medical/remedial expenses. Handbook, App. 15.7.3.

Petitioner's granddaughter testified that a number of additional expenses had been forwarded to the agency after the person who filled out the renewal application failed to include them (she also noted the wrong rent amount). [REDACTED] acknowledged that they were received and informed [REDACTED] that if there are any additional expenses she should provide them. I will order the agency to re-determine petitioner's cost share retroactive to May 1, 2016 based upon the new information.

CONCLUSIONS OF LAW

The agency did not receive complete financial information when it processed petitioner's renewal.

THEREFORE, it is

ORDERED

That the matter be remanded to the agency with instructions to re-determine petitioner's monthly FCP cost-share retroactive to May 1, 2016 using any additional expenses provided by petitioner. The agency shall do so within 10 days of this decision.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 2nd day of June, 2016

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on June 2, 2016.

Milwaukee Enrollment Services
Office of Family Care Expansion
Health Care Access and Accountability